IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

OP.No. 12526 of 2000(N)

PETITIONER:

RAPPAI, S'O. ALIYATH THOMMANA ANTHAPPAN, ANNALLUR VILLAGE AND P.O., MUKUNDSAPURAM TALUK

BY ADV. SRI.K.G.BALASUBRAMANIAN

RESPONDENTS:
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1. RAPHI, SON OF ALIYATH THOMMANA RAPPAI, ANNALLUR VILLAGE AND P.O., MUKUNDAPURAM TALUK.

2. THE DEPUTY TAHSILDAR (RR), MUKUNDAPURAM TALUK.

3. THE VILLAGE OFFICER, ANNALLUR, MUKUNDAPURAM TALUK.

4. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 2055 OF 2000 IN OP 12526 OF 2000

DISMISSED

30.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF WILL NO. 32/1975 OF MALA REGISTRY OFFICE EXECUTED BY ANTHAPPAN AND ANNAM IN FAVOUR OF PETITIONER AND OTHERS.

EXT.P2 TRUE COPY OF TAX RECEIPT DATED 22.4.2000 ISSUED BY THE THIRD RESPONDENT TO PETITIONER.

EXT.P3 TRUE COPY OF TAX RECEIPT DATED 17.2.2000

EXT.P4 TRUE COPY OF DEMAND NOTICE DATED 11.1.2000 ISSUED BY 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 12526 OF 2000

Dated this the 30th day of November, 2007

JUDGMENT

Petitioner, who is the defaulter's father, is questioning the recovery proceedings on the ground that defaulter has no right in the property held by the petitioner. It is for the petitioner to produce title deeds before the recovery authority for him to verify as to whether defaulter has right in the property, and if so, to attach and sell the defaulter's right in the property. Government Pleader pointed out that defaulter himself has property in his name, though mortgaged to the KFC. Since State has priority, recovery authority is free to attach and sell such property. O.P. is therefore closed directing the petitioner to produce title deeds before the recovery authority to establish his title over the property. Tahsildar will proceed to recover the amount from the defaulter only after disposal of claim petition filed by the petitioner in terms of section 46 of the RR Act.

(C.N. RAMACHANDRAN NAIR)
Judge